

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Frank Stubblefield, individually §
Plaintiff, § Case No. 4:20-cv-01115
v. § Judge Keith Ellison
§
Bryan Collier, et al, §
Defendant. §

United States Court
Southern District of Texas
FILED

SEP 09 2020

AMIA Bradley, Clerk of Court

EMERGENCY MOTION TO COURT'S ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, FRANK Stubblefield, individual plaintiff, now files this emergency motion in reference to this Court's Order pertaining to Plaintiff's previously filed motion.

Plaintiff's previous motion was na Emergency Motion filed under Rule 15(a) of the Federal Rules of Civil Procedures. Said motion was deposited in the U.S. Mail on the 26th day of July 2020 and was stamped "FILED" for record on the 29 th day of July 2020.

Based upon the ORDER that was date stamped "ENTERED" on August 05, 2020, the Plaintiff's Emergency Motion (Docet Entry Number 266) was, in affect, denied due to "The case has proceeded to trial, which is now entering its fourth week", making it appear that it was too late to enter into the proceedings.

However, based upon this Court's Civil Docket for Case No. 4:20-cv-01115, it is documented that the "BENCH TRIAL" did not start until 7/13/2020. Plaintiff's emergency Motion was, in essence, filed on the 26th day of July pursuant to the "Mailbox Rule". A pro se prisoner's notice of appeal (in this case a motion) is considered to be filed on the date that prisoner delivers the notice to prison authorities for mailing. See **Houston v. Lack**, 487 U.S. 266, 275, 108 S.Ct. 2379, 101 L.Ed.2d 245(1988). Therefore, Plaintiff's motion was entered only 10 working days after the trial had started. By calculating these dates the case had just completed its second week, NOT its third week as stated in the ORDER. Therefore, Plaintiff's Emergency Motion could have been made a part of the case.

Also, the ORDER that was date stamped "ENTERED" (Docket Entry Number 288) is null and void as it does not have the Judge's signature.

CONCLUSION

Based upon the facts stated above Plaintiff's Emergency Motion could have and still should be made a part of the case. Plaintiff's Emergency Motion was received only after the second week, hence the emergency of the motion; and the ORDER is void for want of the Judges signature.

PRAYER

Applicant prays that this Court accepts the Emergency Motion based on the facts stated above and include him as a joining plaintiff in this case.

Respectfully Submitted,

Frank Stubblefield

9-3-20

Frank Stubblefield, pro se
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Pack Unit
2400 Wallace Pack Rd.
Navasota, Texas 77868

FRANK STUBBLEFIELD
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United States Courts
Southern District of Texas
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David J. Bradley, Clerk of Court

Date: 9-3-2020

David J. Bradley, Clerk
United State District Court
Southern District of Texas
P.O.BOX 61010
Houston, Texas 77208

re: Civil Action No. 4:20-CV-01115

Dear Mr. Brakley,

Enclosed you will find an Emergency Motion to Court's Order. Please date-stamp "FILED" for record and return the provided copy to me. Also enclosed is a S.A.S.E. Please bring this motion to the attention of the Court.

Thank you for your time and assistance in this matter.

Sincerely,

Frank Stubblefield

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DAVID J. BRADLEY, CLERK
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT of TEXAS
P.O. BOX 61010
HOUSTON, TEXAS 77208

United States Court of Appeals
Southern District of Texas
FILED

SEP 09 2020

David J. Bradley, Clerk of Court

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